

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE BEFORE THE
TRADEMARK TRIAL AND APPEAL BOARD

Excelled Sheepskin & Leather Coat Corp.	Opposition No. 91201517
Opposer,	Mark: ROGUEDESIGN App. No. 85/058,446
v.	Mark: ROGUEDZN App. No. 85/058,472
Rogue Design, LLC	
Applicant	

Commissioner of Trademarks
PO Box 1451
Alexandria, Virginia 22313-1451

APPLICANT'S ANSWER

1. Applicant has insufficient information or knowledge to form a belief as to the truth or accuracy of the allegations set forth in Paragraph 1 and therefore denies same.
2. Applicant has insufficient information or knowledge to form a belief as to the truth or accuracy of the allegations set forth in Paragraph 2 and therefore denies same.
3. Applicant has insufficient information or knowledge to form a belief as to the truth or accuracy of the allegations set forth in Paragraph 3 and therefore denies same.
4. Applicant has insufficient information or knowledge to form a belief as to the truth or accuracy of the allegations set forth in Paragraph 4 and therefore denies that Opposer had exclusive right. However, Applicant admits that the '559, '074 and '985 Registrations have been issued to Opposer in connection with apparel goods in Class 25.
5. Applicant has insufficient information or knowledge to form a belief as to the truth or accuracy of the allegations set forth in Paragraph 5 and therefore denies same.
6. Applicant has insufficient information or knowledge to form a belief as to the truth or accuracy of the allegations set forth in Paragraph 6 and therefore denies same.



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7. Applicant has insufficient information or knowledge to form a belief as to the truth or accuracy of the allegations set forth in Paragraph 7 and therefore denies same.
8. Applicant has insufficient information or knowledge to form a belief as to the truth or accuracy of the allegations set forth in Paragraph 8 and therefore denies same.
9. Applicant denies Paragraph 9. None of Registrant's registrations were cited by the Trademark Office as the basis of refusal of registration under Section 2(d) for a potential likelihood of confusion in either of the subject Applications during their prosecution. Applicant had never heard of Registrant, nor its trademarks, before being served with Notice of the instant Opposition. Moreover, in light of the accompanying Express Withdrawal of Class 25 from the Opposed Applications, there is no longer any reasonable basis for alleging a likelihood of confusion.
10. Applicant denies Paragraph 10. Applicant had never heard of Registrant, nor its trademarks, before being served with Notice of the instant Opposition.
11. Applicant denies Paragraph 11. In light of the accompanying Express Withdrawal of Class 25 from the Opposed Applications, there is no reasonable basis for alleging a likelihood of confusion.
12. Applicant denies Paragraph 12.
13. Applicant denies Paragraph 13. In light of the accompanying Express Withdrawal of Class 25 from the Opposed Applications, the allegations in Paragraph 13 are moot.
14. Applicant denies Paragraph 14. Applicant had never heard of Registrant, nor its trademarks, before being served with Notice of the instant Opposition.
15. Applicant admits Paragraph 15.
16. Applicant admits Paragraph 16. However, Applicant denies that Opposer has rights in Class 42 that would require Applicant to obtain Opposer's permission to offer Applicant's proposed Class 42 services.
17. Applicant denies Paragraph 17.
18. Applicant denies Paragraph 18.
19. Applicant has insufficient information or knowledge to form a belief as to the truth or accuracy of the allegations set forth in Paragraph 19 and therefore denies same.
20. Applicant denies Paragraph 20.

21. Applicant denies Paragraph 21.

22. Applicant denies Paragraph 22.

23. Applicant denies Paragraph 23.

AFFIRMATIVE DEFENSES

24. Applicant's marks, ROGUEDESIGN and ROGUEDZN, evoke a substantially different commercial impression than the Opposer's marks ROGUE, ROGUE LEATHER BY REILLY OLMES, and REILLY OLMES ROGUE LEATHER.

25. Opposer does not have the exclusive right to use and register marks containing the term ROGUE for industrial design services.

26. Opposer does not have the exclusive right to use and register ROGUEDESIGN or ROGUEDZN for any goods and/or services.

27. Upon information and belief, Petitioner's mark is weak in the field of apparel and entitled to only a narrow scope of protection, if any, outside of the field of apparel.

28. None of Registrant's registrations were cited by the Trademark Office as the basis of refusal of registration under Section 2(d) for a potential likelihood of confusion in either of the subject Applications during their prosecution.

29. In light of the accompanying Express Withdrawal of Class 25 from the Opposed Applications, there is no longer any reasonable basis for alleging a likelihood of confusion.

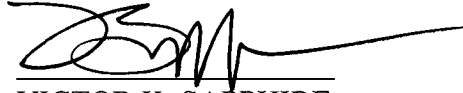
30. Because Opposition has no rights in Class 42, Opposer's Opposition is moot and without basis.

31. Applicant is entitled to registration in Classes 14, 20, and 42 in the '446 Application.

32. Applicant is entitled to registration in Classes 14 and 20 in the "472 Application.

WHEREFORE, it is respectfully requested that this Opposition be dismissed with prejudice.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'V. K. Sapphire', with a long horizontal flourish extending to the right.

VICTOR K. SAPPHIRE

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Attorneys for Applicant

CERTIFICATE OF SERVICE

I hereby certify that a true copy of the foregoing APPLICANT'S ANSWER was filed by first class mail, postage prepaid, this 17th day of October, 2011 upon the following:

Michael A. Grow
Arent Fox LLP
1050 Connecticut Avenue NW
Washington DC 20036

A handwritten signature, likely of Michael A. Grow, is written over a horizontal line.